

# Management of irregularities



# Monitoring of public procurements



The beneficiary may only launch the contract award procedure if the National Development Agency (*NFÜ*) verified the public procurement documents and issued a **public procurement quality control certificate**. The beneficiary shall send the final document launching the procedure to the *NFÜ* at the time of the commencement of the procedure.



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A projekt az Európai Unió támogatásával,  
a Kohéziós Alap társfinanszírozásával  
valósul meg.

# Action against the entities committing infringements



Where the *NFÜ* perceives a public procurement infringement, it has the right to suspend payments, take legal action for irregularity or initiate the *ex officio* proceeding of the Public Procurement Arbitration Board.

According to the Act CXXIX of 2003 on Public Procurement the intermediate body, the *NFÜ*, as well as the Supervising Authority may initiate a remedy procedure where an infringement is perceived by them in the course of the verification of the public procurement documents.

The decision of the Public Procurement Arbitration Board is taken into account by the entity initiating the legal action for irregularity, but **it may establish the infringement in absence of the damning decision of the Arbitration Board as well.**



# The notion of irregularity on the basis of Gov. Decree 4/2011 (28 January)



*irregularity: the infringement* of the provisions set forth in Article 2(7) of the Council Regulation 1083/2006/EC - any infringement of a provision of Community law resulting from an act or omission by an economic operator which has, or **would have, the effect of prejudicing** the general budget of the European Union by charging an unjustified item of expenditure to the general budget –

*and of the provisions stipulated by the national legislation, as well as of the commitments undertaken by the Parties in the support contract, which prejudice or may prejudice the financial interests of the Republic of Hungary.*

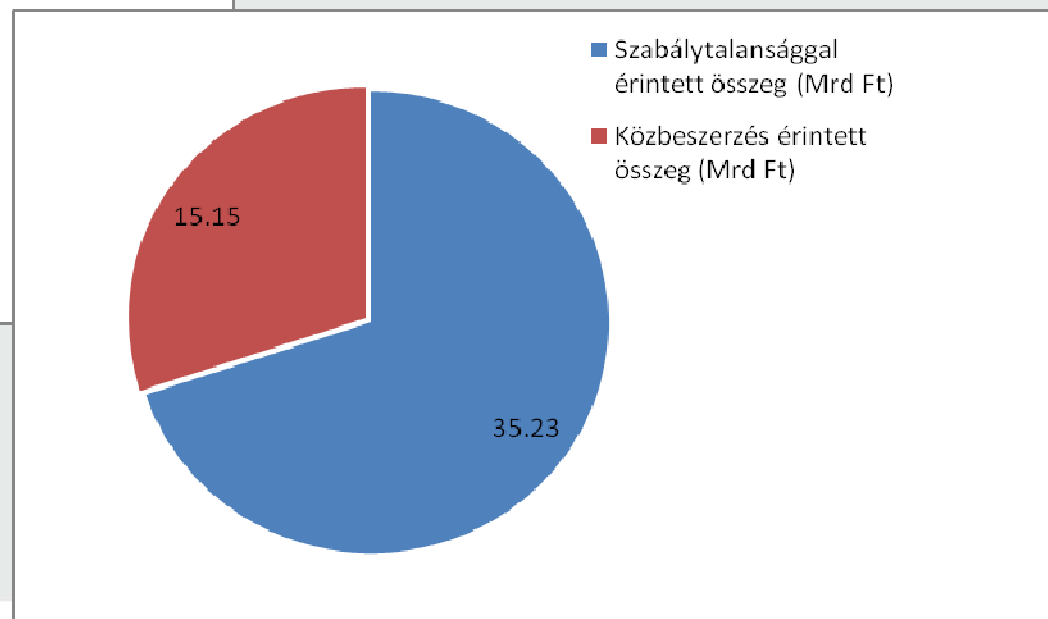
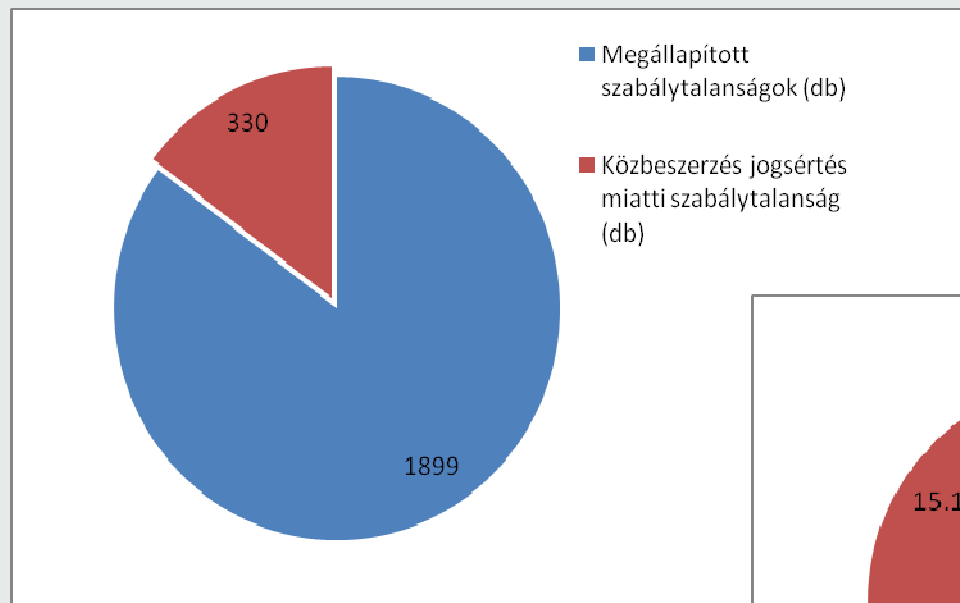


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# Irregularities in relation to public procurements in numbers



# The legal consequences applied by the support provider entity



1. reducing the amount of the costs eligible to be charged on the project support and, at the same time, ordering to repay the support used illegally (guidelines of the European Commission for determining financial corrections to be made for non-compliance with the rules on public procurement, COCOF 07/0037/02-FR)
2. Rescission of the support contract
3. Debarment of the Beneficiary from the support system, for not more than 5 years
4. Application of another legal consequence set forth by a legal instrument of the EU



# Types of irregularities established for the infringement of the Public Procurement Act of Hungary (PPA) - legal cases



1. Amendment of contracts Article 303 of the PPA
2. Negotiated procedure without prior publication of a contract notice - need for additional works Article 125 (3) of the PPA
3. Negotiated procedure without prior publication of a contract notice - exclusive rights due to copyright Article 125(2)(b) of the PPA



# Types of irregularities established for the infringement of the (PPA) – legal cases



4. Unreasonably excessive suitability requirements or certificates of reference prescribed Article 69 (3) of the PPA
5. Infringement of the obligation of aggregation Article 40 of the PPA
6. The contract is not in line with the contents of the contract notice and the successful tender Article 99 of the PPA
7. Failing to provide for the opportunity of the division into lots Article 50 (3) of the PPA





Thank you for your attention!

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